HEYWOOD ERIC BECKER, ESQ.
The Old York Road, New Hope, Pennsylvania 18938 Phone 215 862 2131

No. 82-268
IN THE SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1981

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SUPREME COURT, U.S.

FIRST PENNSYLVANIA BANK, N.A.,
Appellant

v.

LANCASTER COUNTY TAX CLAIM BUREAU,
Appellee,

and

DELLA BECKER,
Appellee,

ANSWER OF APPELLEE, DELLA BECKER, TO MOTION OF APPELLANT, FIRST PENNSYLVANIA BANK, N.A., TO DEFER CONSIDERATION OF ITS JURISDICTIONAL STATEMENT

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On Appeal from the Supreme Court of the Commonwealth of Pennsylvania

ANSWER OF APPELLEE, DELLA BECKER, TO MOTION OF APPELLANT, FIRST PENNSYLVANIA BANK, N.A., TO DEFER CONSIDERATION OF ITS JURISDICTIONAL STATEMENT

Della Becker, Appellee in No. 82-268, requests that this Court not defer consideration of Appellant's Jurisdictional Statement for the following reasons:

1. Denied. Indiana tax sales divest all mortgages, whatever their priority. Ind. Code § 6-1.1-25-4.(d). Here in Pennsylvania, tax sales divest only those mortgages junior in priority to the tax lien, recorded after the real estate taxes became a lien. 72 Pa. Cons. Stat. Ann. § 5860.609. These two very different effects result from the two very different state statutes. The issues here and in Mennonite Board of Missions, Inc. v. Adams are not identical.
2. Admitted in part, denied in part. If First Pennsylvania Bank had taken care to see that the taxes were paid before recording its mortgage, the subsequent tax sale would not have affected its lien. Only junior mortgages, subject to the tax lien, are divested. The general question of what notice is due junior lienholders when their security is to be sold has been decided by this Court. Even a Federal lien was properly divested by a prior senior lien at a Pennsylvania Sherriff's sale without any notice to the United States. USA v. Brosnan, 363 U.S. 237 (1960). Moreover, First Pennsylvania Bank had actual record notice, when recording their mortgage, of the prior senior tax lien.

3. Admitted. Owners must receive personal notice.

4. Admitted.

5. Denied. Appellee has argued that the Supreme Court of Pennsylvania may not have decided this case on a Federal ground, but rather on Pennsylvania's Deficiency Judgement Act, an independent and adequate state ground. There is no reason to defer action on its Jurisdictional Statement, for the appeal should be dismissed. If probable jurisdiction should be noted, then briefing can be deferred until Mennonite Board of Missions, Inc. v. Adams has been decided.

Respectfully submitted,

Heywood Eric Becker, Esq.
Attorney for Appellee,
Dell. Becker